

MOUNTAIN GREEN SEWER IMPROVEMENT DISTRICT

5455 West Old Highway Road, Mountain Green, Utah

Agenda for the Board of Trustees Meeting

7:00 P.M., Thursday, September 05, 2013

I. Welcome, Introductions, Invocation

II. Public Comment Period

III. Business Items

1. Discussion:

- Five Contractors were contacted regarding the repairs for the 32 manholes in the Cottonwoods. Three contractors expressed interest and were sent details. Two of those contractors responded with bids. Little K Construction was awarded the contract with a bid of \$12,150 (about \$14,000 under the maximum budget the Board approved). Repairs commenced on Friday and should be more than halfway complete by the time this meeting takes place.

2. Discussion / Decision: Selection of an attorney to represent MGSID.

- Robert interviewed seven attorneys/firms for possible legal representation. They were selected by either referral or by researching attorneys who specialize in work with small governments and impact fees.
- All hourly rates came in around \$270 to \$290 per hour, except Jon Call who has an hourly rate of \$175 per hour. Travel and expenses are additional for all attorneys.
- **Mark H. Anderson** is located in SLC and is the general counsel for the Utah Association of Special Districts. He also represents a number of local districts, including Ogden and was involved in writing the impact fee act. His daughter works with him and he has several other attorneys in his firm to reference when necessary. Mark is my first choice, and my only concern being the amount of time he would have available for us and his cost.
- **Jon Call** works out of Ogden, but his firm has offices in SLC, as well. Their firm represents many of the developers who are challenging and suing Districts in Impact Fee cases, so they would understand how to write and defend impact fee agreements. Jon is younger (therefore less expensive) but has worked under and with his father, Craig Call, who served as Utah's first Property Rights Ombudsman and compiled the Utah Impact Fee Handbook and Checklists that we use here in the office. Jon is tied with Mark Anderson as my first choice. His advantages for us are location and cost, with the only concern resting on his youth.
- **Brent Rose** is located in SLC and, based on his records, has worked with both Mountain Green Sewer and Water back in 2001. Brent would be an excellent choice except for cost and location. If we could not get Mark Anderson or Jon Call, I would recommend Brent. His focus is on water law and local government. I checked with Ron Lawson to try and get some history on Brent, but Ron told me his memory is slipping on things like this.

- **Dana Farmer** in Ogden. Dana lives in the Cottonwoods and was referred by Zane Gray. His firm deals mainly in business and real estate transactions, and Dana would actually defer our representation to another attorney in his office, Melven Smith. I did not get the sense that they have a lot of experience with small district government issues or impact fee implementation.
 - **Dennis Dahle** is located in SLC and was referred by Blair Larsen. Dennis is an accomplished business attorney and he told me that he would defer our representation to one of the other attorneys in his office, Shawn Draney. I met with Shawn, as well, and after describing our situation he recommended Mark Anderson (above).
 - **Jody Burnett** is located in SLC and was referred by Tina Kelley. Jody has been working with Morgan County on the Johnson Property Master Plan. He has defended Draper City, Lehi City and Cedar Hills on some impact fee issues, but Jody stated that he is more of a land use specialist and has minimal experience with small governments and special districts. .
 - **Craig Smith** is located in SLC and was referred by Tina Kelley. Robert has not had the opportunity to interview Craig by the time the agenda was published, but should have more information on him by the meeting. Craig's bio states that his practice areas are water law, land use and eminent domain, but nothing regarding small government or impact fee law.
 - Which attorney would the Board prefer that the manager works with for any legal issues on behalf of MGSID?
3. Discussion / Decision: The District Manager is recommending that the attorney review our situation with the postponed \$5,700 impact fee, the pending reimbursement agreement and trunk line expenses with the Gardners, as well as the pending new impact fee.
- Robert is concerned that the District will become tangled in a costly legal challenge by Gardner Development when the plats are finalized for Rollins Ranch 4, 5 & 6 as well as Cottonwoods 4.
 - Although the \$5,700 impact fee was approved back in 2008, it has never been charged to any development, and it does not include a definitive reimbursement agreement with actual costs for the trunk line installation.
 - Rulon Gardner has stated that he will challenge this impact fee if it is imposed on him.
 - The best option is to legally review our options and then arrange a meeting with Gardner Development to work out the details on all agreements before a challenge is raised.
 - Does the Board agree with having our attorney review the District's impact fee status and what is the maximum budget that would be acceptable to use towards this review?

4. Discussion: District Operations

- The annexation of lot 62 in the Rosehill development is now complete and recorded.
- Clay was installed on the east edge of lagoon one and successfully stopped a leak between the vinyl curtain that separates cells 1 & 2.
- The small Biolyneus pump at the Monte Verde Lift station ceased operation a few weeks ago, but has since been repaired.
- The power supply for the computer in the control room burned out on Sunday evening, August 26 and we lost monitoring and SCADA controls. The computer was taken in for repairs Monday morning and was back in operation Tuesday morning with only one day's loss of data. Since this computer has been in continual operation for almost five years and the operating system cannot be upgraded, Robert is evaluating a plan for a replacement.
- Effluent water continues to measure well within state requirements. August biological oxygen demand (BOD) in the effluent measured at non-detectable (0% of limit) and TSS registered at 5 ppm (11% of limit). The e-coli bacteria level in the effluent water was also non-detectable.

5. Discussion: District Statistics as of August 31, 2013

- Comparison of the number of Impact Fees received by August 31.
 - 2013 = 74 Impact Fees
 - 2012 = 45 Impact Fees
 - 2011 = 15 Impact Fees.

MGSID DISTRICT FINANCIALS AS OF August 31, 2013		OPERATIONS CHECKING	EXPANSION MONEY MKT	BANK TOTALS
		\$59,381	\$116,259	\$175,640
PTIF 248 OPERATIONS FUNDS	PTIF 4667 EMERGENCY FUNDS	PTIF 4668 REPLACEMENT FUNDS	PTIF 4598 EXPANSION FUNDS	FUND TOTALS
\$132,797	\$125,381	\$206,688	\$122,463	\$587,329

TOTAL CASH \$762,969

ERU STATUS

<i>ERUs Billing</i>	ERUs Under Construction	ERUs Connected	ERUs Committed But Not Activated	WILL SERVES Committed
803	81	+ 836	+ 341	= 1,258

TOTAL ERUs CONNECTED LAST SIX MONTHS RUNNING

	<i>MAR 2013</i>	<i>APR 2012</i>	<i>MAY 2013</i>	<i>JUN 2013</i>	<i>JUL 2013</i>	<i>AUG 2013</i>
CONNECTED	803	808	812	814	828	836
% OF CAPACITY	44.6%	44.9%	45.1%	45.2%	46.0%	46.4%

District requirements on Upgrade: Option Study @ 70% (1,260); Design @ 80% (1,440); Build @ 90% (1,620)

6. Discussion / Decision: Review and approval of August 1, 2013 Minutes.
7. Discussion:
 - Next meeting scheduled for first Thursday, October 3, 2013 @ 7:00 PM.

Motion to Adjourn